



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

CHRISTINE TODD WHITMAN
Governor

February 7, 2001

JOHN J. FARMER, JR.
Attorney General
MARK S. HERR
Director

Mailing Address:

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By Certified and Regular Mail

Magdy Eltouny, P.T.
Therapist Rehabilitation Group, Inc.
2134 Morris Avenue
Union, New Jersey

Re: Excessive charges and Overutilization of treatment
Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Mr. Eltouny:

This letter is to advise you that the New Jersey State Board of Physical Therapy (the "Board") has had an opportunity to review information concerning the offering of excessive charges and overutilization of physical therapy treatment. Specifically, the information reviewed included:

1. A March 20, 2000 complaint letter submitted by Stuart M. Kurtzer, Esquire, representing Rosina O. Bonsu with attachments constituting the billing and patient record of Rosina O. Bonsu.
2. The patient records of Maria Antunes("MA") for the period September 20, 1999 through October 1, 1999 and December 17, 1999 through January 24, 2000.
3. The patient records of Rosina Bonsu ("RB") for the period September 7, 1999 through February 27, 2000.
4. The patient records of Melinda Sanderson ("MS") for the period February 25, 1000 through April 7, 2000.
5. The patient records of Boguslawka Sask ("BS")for the period January 5, 2000 through February 7, 2000.

6. Transcript from the Investigative Inquiry before the Board's Investigation Committee dated July 25, 2000.
7. Your August 12, 2000 letter to the Board providing copies of patient files and an explanation of your billing practices.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(e) or N.J.A.C. 13:39A-3.6, 13:39A-3.1, 13:39A-3.1(b) 5, 6 and 10 in that the Board's review of the patient records for RB, MA, MS and BS support a finding that the charges were excessive. A sample of billing charges are as follows:

MA:	12/29/99	\$279.00
	12/31/99	\$279.00
RB:	10/22/99	\$219.00
	11/15/99	\$279.00
	01/03/99	\$368.00
	01/24/00	\$390.00
MS:	03/10/00	\$184.00
	03/17/00	\$252.00
	11/09/00	\$326.00
BS:	01/28/00	\$300.00
	02/07/00	\$242.00
	02/04/00	\$300.00

Upon further review of the patient records of RB the Board found excessive physical therapy treatment rendered from September 20, 1999 through May 10, 2000. During the eight months that RB was in treatment the patient record failed to contain any physical therapy treatment goals or any notations indicating significant changes in the treatment. Furthermore, you testified that generally, you perform re-evaluations every 4 or 5 weeks (T17:6-7) However, RB's patient record indicates re-evaluations performed on January 12, 21 and 24, 2000. The Board finds that the frequency of these re-evaluations is problematic and are not supported by the patient record. The incomplete record also constitutes a violation of the Board's business practice regulations at N.J.A.C. 13:39A-3.1(b), (5), (6) and 10..

Additionally, RB's records also did not document functional goals or the progress made by the patient during the course of physical therapy treatment and did not contain a discharge summary. These omissions render the record incomplete and support a finding that you overutilized treatment since there is no basis in the record to justify treatment. As such, the Board has preliminarily concluded that the evidence demonstrates professional misconduct in violation of N.J.A.C. 45:1-21(e).

Accordingly, you testified that you set your fees consistent with the New Jersey fee schedule established by the Department of Banking and Insurance in automobile cases and that you charge all patients the same fees regardless whether the cause of the injury was an auto accident or workers compensation claim. (T13:11-15). A review of RB's patient records indicates that on September 22, 1999 you charged \$160 for services rendered in accordance with the fee schedule, where the maximum allowed by the fee schedule is \$143.00. The billing records for January 12, 21 and 24, 2000 indicate that the services performed on these dates were identical but the charges vary. The services billed included a "comprehensive reevaluation, hot/cold packs, electric muscle stimulation, myofascial release, therapeutic exercises, gait training, and functional activities. The charges for January 12 are \$434, the charges for January 21 are \$368 and the charges for January 24 are \$458. A review of other amounts billed to MA demonstrate that the charges in the billing were not the amount allowed by the fee schedule. For example the January 3, 2000 bill charged as follows:

<u>CPT Code</u>	<u>Amount Charged</u>	<u>Amount allowed by fee schedule</u>
97110	\$58.00	\$55.00
97530	\$58.00	\$72.00

There are inconsistencies between your testimony and the bills generated in your office. This Board has a regulation that establishes procedures for the handling of financial arrangements with clients and third party payors. N.J.A.C. 13:39A-3.4. requires a physical therapist to establish reasonable fees commensurate with his status and experience when compared with the fees of physical therapist of like status and experience offering like services or treatment. This regulation also provides that a physical therapist must provide a written copy of the fee schedule that he uses. You were not able to produce a written copy although you advised that your fees were taken off the fee schedule. Patients are entitled to be presented with a written copy of a particular therapist's fees.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of formal disciplinary proceedings, should you consent to:

1. cease and desist from charging excessive fees;
2. ensure that all patient records include patient goals, progress notes and discharge summaries.
3. the issuance of a formal reprimand;

4. pay a penalty in the amount of \$5000 (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter); This amount constitutes a penalty of \$2500 for charging excessive fees and performing excessive treatment which constitutes professional misconduct and \$2500 for the violations of the business practice regulations.
5. pay costs incurred by the Board in the amount of \$630.00

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Rodriguez, who may be reached at (973) 648-3696.

If you elect to settle this matter now you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD
OF PHYSICAL THERAPY

By: 
Susan Gartland
Executive Director

ACKNOWLEDGMENT: I, Magdy Eltouny, P.T. hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$5,630.00 (to be paid upon signing of this acknowledgment), and to comply with all other requirements set forth in the settlement letter.

Magdy Eltouny
Magdy Eltouny, P.T.

for therapists rebels Josephine

Dated: 5/3/11

cc: Lane M. Ferdinand, Esquire
Carmen A. Rodriguez, Deputy Attorney General

2011-05-03 10:27

5/3/11

P.T. Board.

please advise on reference for fee schedule to
charge pts. Also, advise on Board position and M.D.'s
referred for therapy and upon evaluation there is only
Subjective complaints: Should the pt be treated
based on MD's orders or not!

Thank you

Magdy Eltouny P.T. #56